

# City of Detroit

## CITY COUNCIL

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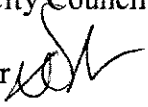



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**TO:** The Honorable Detroit City Council

**FROM:** David Whitaker, Director   
Pamela Osborne   
Kerry Baitinger   
Lewis Smith 

**DATE:** March 17, 2006

**RE:** ANALYSIS OF HOUSE BILL NO. 5029: AMENDMENT TO  
THE HERTEL-LAW-T. STOPCZYNSKI PORT  
AUTHORITY ACT

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Your Honorable Body asked the Research and Analysis Division (RAD) to review and analyze House Bill 5029 which amends 1978 PA 639, entitled "Hertel-Law-T. Stopczynski port authority act" (Act). This Act pertains to local units of governments, which in this instance is the City of Detroit and Wayne County. The Act allows the City to request the governor to authorize the City to have a port authority as a result, the Detroit/Wayne County Port Authority was established.

HB 5029 greatly expands the purposes and jurisdiction of the Detroit/Wayne County Port Authority, while removing the oversight and approval mechanisms from the City Council. As a point of construction, HB 5029 omits Sections 25 through 30 from the original language. Persons in the Michigan House Fiscal Agency informed RAD that the skipped sections were not changes and therefore did not have to be in the bill. For your convenience, RAD has attached a copy of PA 639 of 1978 in full text before any proposed amendments. Also, although the title states that it repeals "acts and parts of acts" it does not state in the body of the bill what "acts" are repealed.

HB 5029 contains the following salient components:

1. Sec. 1A **Added** that the authority should foster and encourage the participation of private enterprise in the development of port authority economic development facilities.
2. Sec. 2(B) **Added** "authorized purposes" means activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within this state.
3. Sec. 2(F) **Added** "Person" means any individual, corporation, partnership, association, or any other legal entity.
4. Sec. 2(G) **Added** "Port Economic Development Facility" means any real or personal property, or both, including, but not limited to, machinery, equipment, plants, factories, offices, buildings, and other structures and facilities that are related to , useful for, or in furtherance of one or more authorized purposes.<sup>1</sup>
5. Sec. 2(H) **Modified** "Port facilities" definition by adding ships and facilities related to the operation and development of ports and harbors, excluding international bridges and tunnels.
6. Sec. 4(2) **Added** "not more than 1 authority shall be created within the boundaries of a city, county, 2 or more counties, or a combination of at least 1 city and 1 county."
7. Sec. 7A(1) **Added** financial, proprietary and other information submitted to a port authority is not a public record subject to the Freedom of Information Act, until that employer commits in writing to proceed with the relocation, location, expansion, improvement or preservation.
8. Sec. 7A(2) **Added** the Board of Directors of a port authority, board of trustees of a nonprofit corporation and any committee or subcommittee, when considering information not a public record, may close any meeting during consideration of that information pursuant to a vote of the members present voting.
9. Sec. 8(1)(c) **Added** may maintain offices outside of its jurisdiction.
10. Sec. 8(1)(d) **Added** may operate port facilities outside of its jurisdiction.
11. Sec. 8(1)(E) **Added** may acquire property by gift or purchase, etc. or operate port economic development facilities within or outside of its territorial jurisdiction.
12. Sec. 8(1)(G) **Added** may loan money, build, rehabilitate, mortgage and sell property,
13. Sec. 8(1)(G)(iv) **Added** may guarantee the obligations of any governmental entity.
14. Sec. 8(1)(O) **Added** that the authority has the same rights, privileges and powers granted an authority in the Brownfield Redevelopment Act and Local Development Financing Act.

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<sup>1</sup> This section did not exclude international bridges and tunnels.

15. Sec. 8(1)(Q) **Added** that the authority may enter into an interlocal agreement under the Urban Cooperation Act.<sup>2</sup>
16. Sec. 8(2) **Added** that the Port authority may accept and hold property, or interest for consideration.
17. Sec. 9(C) **Added** that the authority may accept funds for a port facility or port economic development facility with any legal entity, public or private.
18. Sec. 12(1) **Added** the authority may acquire, purchase, lease air space rights.
19. Sec. 12(2) **Retained** right to acquire condemn lands, property etc.
20. Sec. 15(2) **Added** bonds and notes issued under this section are not subject to the Revenue Bond Act or the Revised Municipal Finance Act.
21. Sec. 16(1) **Added** the authority may borrow money and issue municipal securities under the Revised Municipal Finance Act
22. Sec. 18(1) **Added** that bonds may be issued for "authorized purposes."
23. **Added** a pledge shall be binding and does not have to be filed or recorded to be binding.
24. Sec. 22 **Retained** that certain taxes are exempt.
25. Sec. 23 (2) **Deleted** that the authority's prepared plan for future development, construction, and improvement of its facilities, as amended, extended, shall not be adopted by the authority without prior individual approval by the governing body, (i.e. the City Council and county), the state transportation department and department of commerce (former State name).
26. Sec. 24(1) **Retained** City and County's obligation to pay fifty percent (50%) of the operating budget of the authority, as approved by the State legislature.<sup>3</sup>
27. Sec. 24(3) **Added** that project costs for a specific project is payable from any legally available source.
28. Sec. 31 **Added** financial tools like the ability to obtain a line of credit, subject to approval of the state treasurer.
29. Enacting section 2 **Added** that the bill would not take effect unless House Bill No. 5028 is enacted.

1. **Art IV, Legislative Branch, Sec. 24 Law; object, title, amendments changing purpose of the Michigan Constitution.**

No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

A. **Objects.** Section 1 of HB 5029, has buried its objects in purposes in the definition section as:

"Authorized purposes" means activities that enhance foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within this state.

<sup>2</sup> This would allow the Port Authority to enter agreements with any other applicable government body.

<sup>3</sup> RAD suggests that a budget cap be placed on the obligations of the city, county and state.

Per the standard cited in the *Advisory Opinion on Constitutionality of 1975 PA 227 (1976)*, 396 Mich. 123 (1976):

The two objects sought to be attained by the enactment have no necessary connection with each other, and when grouped together in one act, clearly offend the constitutional provision.

In this case there are at least eight objects in the definition of "authorized purposes" alone, that may or may not have anything to do with port activities. Furthermore, the "Enacting Section 1," in HB 5029, tie-bars to HB 5028, whose object refers to local units establishing local port authorities. It is not clear, what the connection of HB 5029 is to HB 5028. Nor is it clear which acts are repealed, as reflected in the title, but not in the bill. These other acts would reflect a different object.

- B. **Title.** It hard to determine by the title alone, the content of HB 5029. Unlike HB 5028, the title in HB 5029 is very cryptic in its description. There is no reference to new types of facilities. The title further "repeals acts and parts of acts," which is even more confusing as to which acts are repealed.
  - C. **Amendments changing purpose.** The proposed amendments to the "Hertel-Law-T. Stopczynski port authority act" (Act) drastically changes the purpose and scope and operation of port authorities. The bill is more than about the ports and property and functions attached to commerce in harbors and waterways, as created in the current Act and therefore violates the cited constitutional provision by altering and amending the original purpose of the Act. Therefore, this bill, for even more reasons than listed in HB 5028, violates Art. IV, Sec. 24 of the Michigan Constitution.
2. **Art. VII Local Government, Sec. 22 Charters, resolutions, ordinances; enumeration of powers of the Michigan Constitution.**

Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

- A. HB 5029 by so drastically amending the Act, could take away the power and authority of the City to adopt resolutions and ordinances relating to its concerns,

property and government pertaining to port authorities. To illustrate this point, the City passed a resolution in May 6, 2005 granting the Port Authority certain powers over property and operations. Those powers were related to the existing Act which was restricted to port related operations, and not "transportation, economic development, housing, recreation, education, governmental operations, culture, or research within this state." Furthermore, the bill added a whole new area of facilities, not necessarily related to ports:

"Port economic development facility" means **any** real or personal property, or both, including, but not limited to, machinery, equipment, plants, factories, offices, buildings, and other structures and facilities that are related to, useful for, or in furtherance of 1 or more purchase." (Emphasis added.)

The city relied on the current Act's limitations, when granting those additional powers to the Port Authority. To further expand to such vastly different and unrelated purposes, may interfere with the City's ability to manage its local affairs contrary to Article VII Local Government, Section 22 of the Michigan Constitution.

Section 4(2) of the bill limits the total number of Authorities that can be created within the City, whereas, the original language in the Act does not. Again, this interferes with the City right to manage its governmental concerns under the Michigan Constitution provision cited above.

- B. HB 5029 interferes with the right of the City to set its own budget contrary to Article VII, Section 22 cited above. There are several provisions in the bill that require the City's financial commitment. This provision circumvents the City of Detroit budget process.

Pertinent provisions in the bill are:

1. Sec. 8(G)(iv). Guarantee the obligations of any governmental entity.
2. Sec. 8 (2). A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interest therein a the authority in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by the authority.
3. Sec. 15(1). Bonds and notes may be issued under this section regardless of whether the authority owns or proposes to own the project.
4. Sec. 18a. The lien or a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

5. Sec 23(1). The authority can create a plan for the future development, construction, and improvement of the port and its facilities, without requiring the approval of the governing body
6. Sec. 24 (1) The authority shall submit a budget, which the state, city and county must pay 100%, but to which they cannot approve or disapprove.
7. Sec. 24 (3) The project costs of a specific project, including development costs or costs of an undertaking of an authority, shall be payable from any legally available source.

### 3. Art. IX, Finance and Taxation of the Michigan Constitution

Section 29 *State financing of activities or services required of local government by state law.*

A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency or unit of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs.

Based on the language in HB 5029, the City may incur substantial increases in costs to pay for the operations of the Port Authority, to which the State should appropriate out of their funds.

In essence, the bill allows the Port Authority to encumber the City's property interest, regardless of any reversionary interest<sup>4</sup> without requiring the approval of the City Council in accordance with the Detroit City Charter, Art. Sec. 4-112 *Control of Property* which states in part:

Except as otherwise provided by this Charter, the city may not sell or in any way dispose of any property without the approval by resolution of the city council.

Also in jeopardy in HB 5029 is the City's propriety interest in the port authority facilities. The deleted language at Section 16 of the bill removed the protection of requiring the authority to secure a "trust agreement" when obtaining revenue bonds. A trust agreement protects the rights and remedies of the bondholders as may be reasonable and proper and not in violation of the law.

An entirely new section 18A of the bill allows the Authority to make pledges of money or property that is binding against "parties having claims or any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice."

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<sup>4</sup> Reversionary interest is also referred as a "remainder interest." Since the City retained a reversionary interest in the land, the City has a real estate property interest, that should be protected.

Therefore, the Authority may create additional liens such as pledges on the property that the City has some reversionary interest in, but may not know the full extent of encumbrances on the property. This is an erosion of the City's ability to manage its affairs as an independent public body corporation.

The bill also interferes with the City's right set a budget and comply with that budget process in accordance with the Detroit City Charter Article 8 *Planning and Financial Procedures*.

Of special note at Section 8 (G) (iv) of the bill, the authority can "Guarantee the obligations of any governmental entity." This could include the City of Detroit, whose authority to approve plans and budgets and financial obligations would be removed in the bill.

Section (2) of the bill was deleted which would have required the Authority's specific plans done in execution of the official plan be approved by the City and the State. This is very significant, because the Authority could make development plans and undertake additional bonds and debts, using City land as collateral, without any City approval. This appears to violate the Michigan Constitution.

The bill could also interfere with the City's independent right to make contracts and other financial actions, if there are undisclosed liens on the City's assets. The City Charter is allowed under the Michigan Constitution provision cited above. Therefore the bill violates the City's rights under the Michigan Constitution.

### **3. Art. V Executive, Sec. 18, Budget; general and deficiency bills and Sec. 20 Reductions in expenditures of the Michigan Constitution**

While the amended changes are consistent with the Authority becoming more autonomous, as a public corporation, Section 24 of the bill still retained the obligation of the State, City and County to pay 100% of its operating budget. (City to pay 25%). The operating budget approval language has also been deleted from State approval. This violates these sections of the Constitution, which gives the right to the State to prepare budgets of estimated expenditures for approval in accordance with several applicable laws. Further exacerbating this problem is in Section 24(3) of the bill:

The project costs of a specific project, including development costs or costs of an undertaking of an Authority, shall be payable from any legally available source.

The City would lack control over expenditures by the Authority, however those expenditures would still be payable from the City, County and State.

Sections 25 through 30 of the Act with does contain additional safeguards of accountability and protection for the City as well as well as a provision at Section 25,

*Surplus of unencumbered funds; disposition*, which allowed the Authority to transfer surplus funds into their general funds (State 50% and City and County 25% each).

**4. Art. VII, Local Government, Sec. 29 Highways, street, alleys, public places; control, us by public utilities of the Michigan Constitution.**

...Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Section 12 (1) of the bill, gives the authority the right to acquire air space rights, along with other property by condemnation, without the approval of the city to build "economic development facilities." This proposed bill could interfere with the right of the City to plan and manage its public places as granted under the Constitution.

**Summary**

House Bill 5029, which amends PA 639 of 1978, entitled, "Hertel-Law-T. Stopczynski port authority act," is too broad and far-reaching into the City of Detroit's authority and compromises jurisdiction under the Michigan Constitution of the State of Michigan of 1963. The "authorized purposes" as defined in the bill would drastically amend the purpose of an existing local port authority beyond. A local unit of government may have relied upon the original scope and purpose as stated in PA 639 of 1978, when is authorized the creation of the Detroit/Wayne County Port Authority.



# HOUSE BILL No. 5029

June 29, 2005, Introduced by Reps. Hunter, Kolb, Gillard, Gaffney, Palsrok, Proos, Farrah, Garfield, Gosselin, McConico, Leland, Tobocman, Huizenga, Stahl, Lipsey, Amos, Cheeks and Lemmons, III and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1978 PA 639, entitled  
"Hertel-Law-T. Stopczynski port authority act,"  
by amending sections 2, 4, 8, 9, 12, 13, 14, 15, 16, 18, 22, 23,  
and 24 (MCL 120.102, 120.104, 120.108, 120.109, 120.112, 120.113,  
120.114, 120.115, 120.116, 120.118, 120.122, 120.123, and 120.124),  
sections 14 and 18 as amended by 2002 PA 412 and section 23 as  
amended by 1984 PA 256, and by adding sections 1a, 1b, 7a, 18a, 31,  
and 32; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 1A. THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

(A) THAT THERE EXISTS IN THIS STATE CONDITIONS OF PROPERTY  
VALUE DETERIORATION DETRIMENTAL TO THE STATE ECONOMY AND THE  
ECONOMIC GROWTH OF THE STATE AND ITS LOCAL UNITS OF GOVERNMENT.

(B) THAT GOVERNMENT PROGRAMS ARE DESIRABLE AND NECESSARY TO  
ELIMINATE THE CAUSES OF PROPERTY VALUE DETERIORATION AND BENEFIT

1 THE ECONOMIC GROWTH OF THE STATE.

2 (C) THAT IT IS APPROPRIATE TO FINANCE THESE GOVERNMENT  
3 PROGRAMS BY MEANS AVAILABLE TO THE STATE AND LOCAL UNITS OF  
4 GOVERNMENT IN THE STATE, INCLUDING THE ISSUANCE OF BONDS AND NOTES.

5 (D) THAT HALTING PROPERTY VALUE DETERIORATION AND PROMOTING  
6 ECONOMIC GROWTH IN THE STATE ARE ESSENTIAL GOVERNMENTAL FUNCTIONS  
7 AND CONSTITUTE ESSENTIAL PUBLIC PURPOSES.

8 (E) THAT ECONOMIC DEVELOPMENT STRENGTHENS THE TAX BASE UPON  
9 WHICH LOCAL UNITS OF GOVERNMENT RELY AND THAT GOVERNMENT PROGRAMS  
10 TO ELIMINATE PROPERTY VALUE DETERIORATION BENEFIT LOCAL UNITS OF  
11 GOVERNMENT AND ARE FOR THE USE OF THE LOCAL UNITS OF GOVERNMENT.

12 (F) THAT THE PROVISIONS OF THIS ACT ARE ENACTED TO PROVIDE A  
13 MEANS FOR COUNTIES AND CITIES TO ELIMINATE PROPERTY VALUE  
14 DETERIORATION AND TO PROMOTE ECONOMIC GROWTH IN THE COMMUNITIES  
15 SERVED BY THOSE COUNTIES AND CITIES.

16 SEC. 1B. THE AUTHORITY SHOULD FOSTER AND ENCOURAGE THE  
17 PARTICIPATION OF PRIVATE ENTERPRISE IN THE DEVELOPMENT OF PORT  
18 AUTHORITY ECONOMIC DEVELOPMENT FACILITIES TO THE EXTENT IT  
19 CONSIDERS PRACTICABLE IN LIMITING THE NECESSITY OF ACQUISITION,  
20 CONSTRUCTION, AND OPERATION OF THOSE FACILITIES BY THE AUTHORITY.

21 Sec. 2. As used in this act:

22 (a) "Authority" means a port authority created under this act  
23 and may also include the area within the jurisdiction of an  
24 authority.

25 (B) "AUTHORIZED PURPOSES" MEANS ACTIVITIES THAT ENHANCE,  
26 FOSTER, AID, PROVIDE, OR PROMOTE TRANSPORTATION, ECONOMIC  
27 DEVELOPMENT, HOUSING, RECREATION, EDUCATION, GOVERNMENTAL

1 OPERATIONS, CULTURE, OR RESEARCH WITHIN THIS STATE.

2 (C) ~~—(b)—~~ "Constituent unit" means a city or county requesting  
3 the incorporation of an authority.

4 (D) ~~—(e)—~~ "Governing body of the city" means the city council  
5 or city commission of a city requesting incorporation of an  
6 authority created under this act.

7 (E) ~~—(d)—~~ "Governing body of the county" means the county  
8 board of commissioners of a county participating in an authority  
9 created under this act.

10 (F) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,  
11 ASSOCIATION, OR ANY OTHER LEGAL ENTITY.

12 (G) "PORT ECONOMIC DEVELOPMENT FACILITY" MEANS ANY REAL OR  
13 PERSONAL PROPERTY, OR BOTH, INCLUDING, BUT NOT LIMITED TO,  
14 MACHINERY, EQUIPMENT, PLANTS, FACTORIES, OFFICES, BUILDINGS, AND  
15 OTHER STRUCTURES AND FACILITIES THAT ARE RELATED TO, USEFUL FOR, OR  
16 IN FURTHERANCE OF 1 OR MORE AUTHORIZED PURPOSES.

17 (H) ~~—(e)—~~ "Port facilities" means ~~those facilities owned by~~  
18 ~~the port authority such as:~~ seawall jetties, ~~+~~ piers, ~~+~~  
19 wharves, ~~+~~ docks, ~~+~~ boat landings, ~~+~~ marinas, ~~+~~ warehouses,  
20 ~~+~~ storehouses, ~~+~~ elevators, ~~+~~ grain bins, ~~+~~ cold storage  
21 plants, ~~+~~ terminal icing plants, ~~+~~ bunkers, ~~+~~ oil tanks, ~~+~~  
22 ferries, ~~+~~ SHIPS, canals, ~~+~~ locks, ~~+~~ bridges, ~~+~~ tunnels, ~~+~~  
23 seaways, ~~+~~ conveyors, ~~+~~ modern ~~appliances~~ FACILITIES for the  
24 economical handling, storage, and transportation of freight and  
25 handling of passenger traffic, ~~+~~ transfer and terminal facilities  
26 required for the efficient operation and development of ports and  
27 harbors, ~~+~~ other harbor improvements, ~~+~~ ~~or~~ improvements,

1 enlargements, remodeling, or extensions of any of these buildings  
 2 or structures, **OR OTHER FACILITIES FUNCTIONALLY RELATED TO THESE**  
 3 **BUILDINGS OR STRUCTURES. PORT FACILITIES DO NOT INCLUDE**  
 4 **INTERNATIONAL BRIDGES OR TUNNELS.**

5 (I) ~~(f)~~ "Project" means the acquisition, purchase,  
 6 construction, reconstruction, rehabilitation, **FINANCING,**  
 7 remodeling, improvement, enlargement, repair, condemnation,  
 8 maintenance, or operation of port facilities **OR PORT ECONOMIC**  
 9 **DEVELOPMENT FACILITIES.**

10 Sec. 4. (1) A city and county, a combination of counties or a  
 11 combination consisting of at least 1 city and 1 county, by  
 12 **RESOLUTION OF THE GOVERNING BODY OR BY** joint resolution of their  
 13 respective governing bodies, may request the governor to authorize  
 14 the incorporation of an authority. The governor shall consider the  
 15 recommendations of the ~~department of state highways and~~ **STATE**  
 16 transportation **DEPARTMENT** and the department of ~~commerce in~~ **LABOR**  
 17 **AND ECONOMIC GROWTH** authorizing the authority. The initial articles  
 18 of incorporation shall be approved by the governor and may  
 19 ~~thereafter~~ **THEN** be amended by resolution of the authority, subject  
 20 to approval by the governor. After approval by the governor, the  
 21 articles of incorporation and any amendments to those articles  
 22 shall be effective upon filing with the secretary of state.

23 (2) An authority created under this act shall be a body  
 24 corporate and politic. **NOT MORE THAN 1 AUTHORITY SHALL BE CREATED**  
 25 **WITHIN THE BOUNDARIES OF A CITY, COUNTY, 2 OR MORE COUNTIES, OR A**  
 26 **COMBINATION OF AT LEAST 1 CITY AND 1 COUNTY.**

27 (3) The exercise by an authority of the powers conferred by

1 this act shall be considered and held to be an essential  
2 governmental function and a benefit to, and a legitimate public  
3 purpose of the state, the authority, and the constituent units.

4 SEC. 7A. (1) FINANCIAL AND PROPRIETARY INFORMATION, INCLUDING  
5 TRADE SECRETS, SUBMITTED BY OR ON BEHALF OF AN EMPLOYER TO A PORT  
6 AUTHORITY OR TO A NONPROFIT CORPORATION ENGAGED BY CONTRACT TO  
7 PROVIDE ECONOMIC DEVELOPMENT SERVICES FOR A PORT AUTHORITY, IN  
8 CONNECTION WITH THE RELOCATION, LOCATION, EXPANSION, IMPROVEMENT,  
9 OR PRESERVATION OF THE BUSINESS OF THAT EMPLOYER IS NOT A PUBLIC  
10 RECORD SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL  
11 15.231 TO 15.246. ANY OTHER INFORMATION SUBMITTED BY AN EMPLOYER  
12 UNDER SUCH CIRCUMSTANCES IS NOT A PUBLIC RECORD SUBJECT TO THE  
13 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246,  
14 UNTIL THAT EMPLOYER COMMITS IN WRITING TO PROCEED WITH THE  
15 RELOCATION, LOCATION, EXPANSION, IMPROVEMENT, OR PRESERVATION.

16 (2) NOTWITHSTANDING THE OPEN MEETINGS ACT, 1976 PA 267, MCL  
17 15.261 TO 15.275, THE BOARD OF DIRECTORS OF A PORT AUTHORITY AND  
18 THE BOARD OF TRUSTEES OF A NONPROFIT CORPORATION DESCRIBED IN  
19 SUBSECTION (1), AND ANY COMMITTEE OR SUBCOMMITTEE OF SUCH ENTITIES,  
20 WHEN CONSIDERING INFORMATION THAT IS NOT A PUBLIC RECORD UNDER THIS  
21 SECTION, MAY CLOSE ANY MEETING DURING THE CONSIDERATION OF THAT  
22 INFORMATION PURSUANT TO A VOTE OF THE MEMBERS PRESENT ON A MOTION  
23 STATING THAT THE INFORMATION IS TO BE CONSIDERED. NO OTHER MATTERS  
24 SHALL BE CONSIDERED DURING THE CLOSED SESSION.

25 Sec. 8. (1) An authority may DO ANY OF THE FOLLOWING:

26 (a) Adopt, amend, and repeal bylaws for the regulation of its  
27 affairs and the conduct of its business.

(b) Sue and be sued on the same basis as the state; and adopt and register with the secretary of state an official seal and alter that seal at its pleasure.

(c) Maintain offices at a place or places, either within or ~~without~~ **OUTSIDE OF** its jurisdiction as ~~it~~ **THE AUTHORITY** may determine.

(d) Acquire **BY GIFT OR PURCHASE, OWN, construct, reconstruct, rehabilitate, improve, maintain, FURNISH, EQUIP, SELL, EXCHANGE,** lease as lessor or as lessee, repair, **FINANCE,** or operate port facilities within **OR OUTSIDE OF** its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land ~~therefor~~ **FOR THESE PURPOSES.** An authority may operate a leased facility, owned by the authority, if the lessee defaults and a new lease is negotiated or competitively bid.

**(E) ACQUIRE BY GIFT OR PURCHASE, OWN, CONSTRUCT, RECONSTRUCT, REHABILITATE, IMPROVE, MAINTAIN, FURNISH, EQUIP, SELL, EXCHANGE, LEASE AS LESSOR OR AS LESSEE, REPAIR, FINANCE, OR OPERATE PORT ECONOMIC DEVELOPMENT FACILITIES WITHIN OR OUTSIDE OF ITS TERRITORIAL JURISDICTION.**

**(F) ~~(e)~~** Designate the location and character of the port facilities ~~which~~ **AND PORT ECONOMIC DEVELOPMENT FACILITIES THAT** the authority may hold, **CONTROL,** or own or over which it is authorized to act and regulate all matters related to the location and character of those port facilities.

~~—(f) Acquire, hold, and dispose of real and personal property.~~

**(G) DO ANY OF THE FOLLOWING IN CONNECTION WITH A PROJECT IN**

1 REGARD TO INTERESTS IN ANY REAL OR PERSONAL PROPERTY, INCLUDING,  
2 BUT NOT LIMITED TO, MACHINERY, EQUIPMENT, PLANTS, FACTORIES,  
3 OFFICES, AND OTHER STRUCTURES AND FACILITIES RELATED TO ANY  
4 AUTHORIZED PURPOSE, FOR CONSIDERATION AND IN A MANNER AS THE  
5 AUTHORITY MAY DETERMINE:

6 (i) LOAN MONEY TO ANY PERSON FOR THE ACQUISITION, CONSTRUCTION,  
7 RECONSTRUCTION, REHABILITATION, IMPROVEMENT, MAINTENANCE,  
8 FURNISHING, AND EQUIPPING OF THE PROPERTY.

9 (ii) ACQUIRE, CONSTRUCT, RECONSTRUCT, REHABILITATE, IMPROVE,  
10 MAINTAIN, REPAIR, FURNISH, OR EQUIP THE PROPERTY.

11 (iii) SELL TO, EXCHANGE WITH, LEASE AS LESSOR OR LESSEE, CONVEY  
12 OTHER INTERESTS IN, OR LEASE WITH AN OPTION TO PURCHASE THE SAME OR  
13 ANY LESSER INTEREST IN THE PROPERTY TO THE SAME OR ANY OTHER PERSON  
14 OR GOVERNMENTAL ENTITY.

15 (iv) GUARANTEE THE OBLIGATIONS OF ANY GOVERNMENTAL ENTITY.

16 (H) ~~-(g)-~~ Make directly, or through the hiring of expert  
17 consultants, investigations and surveys of whatever nature,  
18 including studies of business conditions, freight rates, port  
19 services, physical surveys of the conditions of channels and  
20 structures, and the necessity for additional port facilities for  
21 the development and improvement of commerce and recreation and for  
22 the more expeditious handling of that commerce and recreation, and  
23 make studies, surveys, and estimates, as necessary for the  
24 execution of its powers under this act.

25 (I) ~~-(h)-~~ Promulgate all necessary rules to fulfill the  
26 purposes of this act.

27 (J) ~~-(i)-~~ Issue its bonds, notes, or other evidences of

1 indebtedness as provided in this act.

2 (K) ~~-(j) Fix~~ ESTABLISH and revise from time to time and  
3 charge and collect rates, fees, rentals, or other charges for the  
4 use of a PORT FACILITY OR PORT ECONOMIC DEVELOPMENT facility owned  
5 OR OPERATED by the authority.

6 (I) MAKE SECURED OR UNSECURED LOANS, UNDERTAKE COMMITMENTS TO  
7 MAKE SECURED OR UNSECURED LOANS AND MORTGAGES, SELL LOANS AND  
8 MORTGAGES AT PUBLIC OR PRIVATE SALE, REWRITE LOANS AND MORTGAGES,  
9 DISCHARGE LOANS AND MORTGAGES, FORECLOSE ON A MORTGAGE, OR COMMENCE  
10 AN ACTION TO PROTECT OR ENFORCE A RIGHT, MORTGAGE, LOAN, CONTRACT,  
11 OR OTHER AGREEMENT.

12 (M) ENTER INTO LEASES, AS LESSOR OR LESSEE, LEASE PURCHASE  
13 AGREEMENTS, INSTALLMENT SALES CONTRACTS, OR LOAN AGREEMENTS WITH  
14 ANY PERSON FOR THE USE, SALE, DEVELOPMENT, OR FINANCING OF A  
15 PROJECT.

16 (N) MORTGAGE OR CREATE SECURITY INTERESTS IN ALL OR PART OF A  
17 PROJECT, A LEASE OR LOAN, OR THE RENTS, REVENUES, OR SUMS TO BE  
18 PAID DURING THE TERM OF A LEASE OR LOAN, IN FAVOR OF HOLDERS OF  
19 BONDS OR NOTES ISSUED BY THE AUTHORITY OR IN FAVOR OF A TRUSTEE OR  
20 CREDIT PROVIDER.

21 (O) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN  
22 AUTHORITY IN THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA  
23 381, MCL 125.2651 TO 125.2672.

24 (P) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN  
25 AUTHORITY IN THE LOCAL DEVELOPMENT FINANCING ACT, 1986 PA 281, MCL  
26 125.2151 TO 125.2174.

27 (Q) ENTER INTO AN INTERLOCAL AGREEMENT UNDER THE URBAN



1 COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO  
 2 124.512, WITH A PUBLIC AGENCY AS DEFINED BY THE URBAN COOPERATION  
 3 ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512.

4 (2) A PORT AUTHORITY MAY ACCEPT AND HOLD AS CONSIDERATION FOR  
 5 THE CONVEYANCE OF PROPERTY OR ANY INTEREST THEREIN SUCH PROPERTY OR  
 6 INTEREST THEREIN AS THE AUTHORITY IN ITS DISCRETION MAY DETERMINE,  
 7 NOTWITHSTANDING ANY RESTRICTIONS THAT APPLY TO THE INVESTMENT OF  
 8 FUNDS BY AN AUTHORITY.

9 Sec. 9. An authority may:

10 (a) Appear in its own behalf before boards, commissions,  
 11 departments, or other agencies of the federal government or of any  
 12 state or international conferences and before committees of the  
 13 congress of the United States and the state legislature in all  
 14 matters relating to the design, establishment, construction,  
 15 extension, operation, improvement, repair, or maintenance of a  
 16 project operated and maintained by the authority under this act. —  
 17 ~~and appear~~

18 (B) APPEAR before any federal or state agencies in matters  
 19 relating to transportation rates, port services and charges,  
 20 demurrage, switching, wharfage, towage, pilotage, differentials,  
 21 discriminations, labor relations, trade practices, river and harbor  
 22 improvements, aids to navigation, permits for structures in  
 23 navigable waters, and all other matters affecting the physical  
 24 development of, and the business interest of, the authority and  
 25 those it serves.

26 (C) ~~(b)~~ Make application for, receive and accept from any  
 27 federal, state, or municipal agency, foundation, public or private

1 agency, or individual, a grant or loan for, or in aid of, the  
 2 planning, construction, operation, or financing of a port **FACILITY**  
 3 **OR PORT ECONOMIC DEVELOPMENT** facility; and receive and accept  
 4 contributions from any source of money, property, labor, or other  
 5 things of value, to be held, used, and applied for the purposes for  
 6 which the grant or contribution may be made.

7 (D) ~~-(e)-~~ Appoint an executive director who shall be the chief  
 8 administrative officer of the authority, and to whom the authority  
 9 may delegate any of its administrative powers and authorizations.  
 10 During employment the executive director shall not have a financial  
 11 interest in port facilities or projects over which the authority  
 12 has jurisdiction or power or authorization to act.

13 (E) ~~-(d)-~~ Employ personnel as is necessary and employ the  
 14 services of private consultants and engineers, legal counsel,  
 15 accountants, construction and financial experts, and other agents  
 16 for rendering professional and technical assistance and advice as  
 17 may be necessary, and whose compensation, including the executive  
 18 director, shall be determined by the authority.

19 Sec. 12. (1) An authority may acquire by purchase or lease,  
 20 when it considers the purchase or lease expedient, lands,  
 21 structures, property, rights, rights of way, franchises, easements,  
 22 and other interests in lands **OR AIR SPACE RIGHTS** as it considers  
 23 necessary or convenient for the construction or operation of a  
 24 project, upon terms and at a price as considered reasonable and  
 25 agreed upon between the authority and the owner thereof.

26 (2) An authority may acquire by condemnation lands, property  
 27 rights, rights of way, franchises, easements, and other property,

1 or parts thereof or rights therein, of a person, partnership,  
 2 association, or corporation considered by the authority to be  
 3 necessary for the construction or efficient operation of a project.  
 4 ~~However, a~~ A facility currently operated as a port facility by a  
 5 terminal operator or a facility owned or operated by ~~and for the~~  
 6 ~~exclusive use of the owner or operator and a facility owned or~~  
 7 ~~operated by~~ a common carrier or public utility shall be exempt  
 8 from this subsection. The condemnation shall be made in the manner  
 9 provided ~~by Act No. 295 of the Public Acts of 1966, as amended,~~  
 10 ~~being sections 213.361 to 213.391 of the Michigan Compiled Laws~~  
 11 **UNDER 1966 PA 295, MCL 213.361 TO 213.391, OR THE UNIFORM**  
 12 **CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO 213.75,**  
 13 except where that procedure may be inconsistent with this act.

14 (3) An authority may sell or remove the buildings or other  
 15 structures upon lands taken by the authority, and may sell or lease  
 16 lands or rights or interest in lands or other property ~~taken or~~  
 17 ~~purchased for the purposes of~~ **COMPRISING A PROJECT UNDER** this act.

18 Sec. 13. (1) An authority and 1 or more constituent units may  
 19 enter into a contract or contracts for the acquisition,  
 20 improvement, enlargement, or extension of port facilities **OR PORT**  
 21 **ECONOMIC DEVELOPMENT FACILITIES** and for the payment of the cost  
 22 ~~thereof by~~ **OF** the contracting constituent units, with interest,  
 23 over a period of not more than 40 years.

24 (2) Each contracting constituent unit ~~shall~~ **MAY** pledge its  
 25 full faith and credit for the payment of its obligations under the  
 26 contract. If the constituent unit has taxing power, each year it  
 27 shall levy a tax upon all real and personal property within the

1 constituent unit, which may be imposed without limitation as to  
 2 rate or amount, to the extent necessary for the prompt payment of  
 3 that part of the contract obligations as shall fall due before the  
 4 following year's tax collection. The tax shall be in addition to  
 5 any tax which the contracting constituent unit may otherwise be  
 6 authorized to levy and may be imposed without limitation as to rate  
 7 or amount, but shall not be in excess of the rate or amount  
 8 necessary to pay the contract obligation. If any contracting  
 9 constituent unit at the time of its annual tax levy has on hand in  
 10 cash any amount pledged to the payment of the current obligations  
 11 for which the tax levy is to be made, then the annual tax levy may  
 12 be reduced by that amount. ~~For the purpose of obtaining the~~  
 13 ~~credit, funds~~

14 (3) **FUNDS** may be raised by a contracting constituent unit in 1  
 15 or more of the following methods:

16 (a) By service charge to users of the facilities owned,  
 17 **IMPROVED, CONTROLLED, OPERATED, OR MAINTAINED** by the port  
 18 authority.

19 (b) By setting aside state collected funds disbursed to the  
 20 contracting constituent unit.

21 (c) By special assessment upon lands benefited.

22 (d) By setting aside any other available money.

23 (4) ~~—(3)—~~ A contracting constituent unit may agree to raise  
 24 all or any part of its contract obligation by 1 or more of the  
 25 methods enumerated in subsection ~~—(2)—~~ which (3) **THAT** may be  
 26 available. The various powers granted in this act to a constituent  
 27 unit shall be exercised by its governing body.

1       (5) ~~(4)~~ If a constituent unit, other than a county,  
 2       operating under this act elects to raise money to pay all or a  
 3       portion of its share of the cost of a project by assessing the  
 4       costs upon benefited lands, its governing body shall ~~so~~ determine  
 5       by resolution and ~~fix~~ **ESTABLISH** the district. ~~therefor~~. The  
 6       governing body shall then cause a special assessment roll to be  
 7       prepared. ~~and thereafter the proceedings in respect to~~ **THE**  
 8       **PROCEDURES REGARDING** the special assessment roll and the making and  
 9       collection of the special assessments ~~on the roll,~~ shall be in  
 10       accordance with the provisions of the statute or charter governing  
 11       special assessments in the constituent unit. ~~except that the~~  
 12       **THE** total assessment may be divided into any number of installments  
 13       not exceeding 30, and any person assessed shall have the right at  
 14       the hearing upon the special assessment roll to object to the  
 15       special assessment district previously established.

16       Sec. 14. (1) ~~An authority may provide by resolution for the~~  
 17       ~~issuance of revenue bonds of the authority for the purpose of~~  
 18       ~~providing funds for paying the cost of port facilities, or for~~  
 19       ~~paying the cost of an extension, enlargement, or improvement of a~~  
 20       ~~project then under the control of the authority. The bonds issued~~  
 21       ~~under this section shall mature at a time or times, not exceeding~~  
 22       ~~40 years after their date of issuance, as the authority may~~  
 23       ~~provide.~~ **FOR THE PURPOSE OF ACQUIRING, PURCHASING, CONSTRUCTING,**  
 24       **IMPROVING, ENLARGING, FURNISHING, EQUIPPING, REEQUIPPING, OR**  
 25       **REPAIRING PORT FACILITIES OR A PORT ECONOMIC DEVELOPMENT FACILITY,**  
 26       **THE AUTHORITY MAY ISSUE SELF-LIQUIDATING BONDS OF THE AUTHORITY**  
 27       **UNDER THE REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO**

1 141.140.

2 ~~—— (2) Revenue bonds issued under this section are subject to the~~  
3 ~~revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.~~

4 (2) ~~—(3)—~~ Revenue bonds issued ~~pursuant to~~ UNDER this  
5 section shall not be considered to constitute a debt of this state,  
6 a political subdivision of this state, the authority, or any  
7 constituent unit, or a pledge of the FULL faith and credit of this  
8 state or a political subdivision of this state, ~~or~~ of the  
9 authority, or any constituent unit, but shall be payable solely  
10 from the revenues or income to be derived from the projects. The  
11 revenue bonds shall contain on their face a statement to the effect  
12 that the bonds and attached coupons are payable solely from  
13 revenues and are not a general obligation of this state, a  
14 political subdivision of this state, the authority, or a  
15 constituent unit, and neither the FULL faith and credit nor the  
16 taxing power of this state, a political subdivision of this state,  
17 the authority, or a constituent unit, is pledged to the payment of  
18 the principal of or the interest on the bonds.

19 Sec. 15. ~~An authority shall determine the form of the bonds~~  
20 ~~of each series issued pursuant to section 14, including any~~  
21 ~~interest coupons to be attached thereto, the date of the bonds, the~~  
22 ~~denomination of the bonds, and the place of payment of principal~~  
23 ~~and interest, which may be at any bank or trust company within or~~  
24 ~~without the state. The bonds of each series may be made redeemable~~  
25 ~~before their maturity or maturities at the option of the authority,~~  
26 ~~at a price and under the terms and conditions as may be fixed by~~  
27 ~~the authority before issuance of the bonds. If an officer whose~~

~~signature or a facsimile of whose signature appears on any bonds or~~  
~~coupons ceases to be an officer before delivery of the bonds, the~~  
~~signature or facsimile shall nevertheless be valid and sufficient~~  
~~for all purposes the same as if the officer had remained in office~~  
~~until the delivery. The bonds may be issued in coupon or in~~  
~~registered form, or both, as the authority may determine, and~~  
~~provision may be made for the registration of any coupon bonds as~~  
~~to principal alone and also as to both principal and interest, for~~  
~~the reconversion into coupon bonds of any bonds registered as to~~  
~~both principal and interest, and for the interchange of coupon and~~  
~~registered bonds.~~

(1) AN AUTHORITY MAY BORROW MONEY AND ISSUE ITS REVENUE BONDS  
 OR NOTES TO FINANCE OR REFINANCE PART OR ALL OF A PROJECT AND THE  
 COSTS NECESSARY OR INCIDENTAL TO THE BORROWING OF MONEY AND ISSUING  
 OF BONDS OR NOTES FOR THAT PURPOSE, AND MAY SECURE THOSE BONDS AND  
 NOTES BY MORTGAGE, ASSIGNMENT, OR PLEDGE OF ANY OF THE AUTHORITY'S  
 MONEY, REVENUES, INCOME, AND PROPERTIES. BONDS AND NOTES MAY BE  
 ISSUED UNDER THIS SECTION REGARDLESS OF WHETHER THE AUTHORITY OWNS  
 OR PROPOSES TO OWN THE PROJECT.

(2) BONDS AND NOTES ISSUED UNDER THIS SECTION ARE NOT SUBJECT  
 TO THE REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140  
 OR THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO  
 141.2821.

Sec. 16. ~~Revenue bonds issued pursuant to this act shall be~~  
~~secured by a trust agreement by and between the authority and a~~  
~~corporate trustee, which may be any trust company or bank having~~  
~~the powers of a trust company, within or without the state. The~~

~~1 trust agreement may pledge or assign the rentals and other revenues  
2 of the authority, but shall not convey or mortgage part or all of a  
3 project. The trust agreement shall contain provisions for  
4 protecting and enforcing the rights and remedies of the bondholders  
5 as may be reasonable and proper and not in violation of law,  
6 including covenants setting forth the duties of the authority in  
7 relation to the acquisition or construction of a project and the  
8 extension, enlargement, improvement, maintenance, operation,  
9 repair, and insurance of a project and the custody, safeguarding,  
10 and application of all money and may contain provisions for the  
11 employment of consulting engineers in connection with the  
12 construction and operation of a project. The trust agreement shall  
13 set forth the rights and remedies of the bondholders and of the  
14 trustee and may restrict the individual right of action by the  
15 bondholders and may contain any other provisions the authority may  
16 consider reasonable and proper for the security of the bondholders.~~

17 (1) AN AUTHORITY MAY BORROW MONEY AND ISSUE MUNICIPAL  
18 SECURITIES UNDER THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL  
19 141.2101 TO 141.2821.

20 (2) AN AUTHORITY MAY BORROW MONEY AND ISSUE SHORT-TERM  
21 MUNICIPAL SECURITIES MATURING NOT MORE THAN 1 YEAR FROM THE DATE OF  
22 ISSUE IN ANTICIPATION OF THE COLLECTION OF REVENUES TO WHICH IT  
23 WILL BE ENTITLED TO RECEIVE WITHIN 1 YEAR FROM THE DATE OF THE  
24 SHORT-TERM MUNICIPAL SECURITIES' ISSUANCE. THE AMOUNT OF THE SHORT-  
25 TERM MUNICIPAL SECURITIES ISSUED UNDER THIS SECTION SHALL NOT  
26 EXCEED 100% OF THE REVENUES COLLECTED IN THE PRECEDING FISCAL YEAR  
27 NOT PLEDGED FOR THE PAYMENT OF A SECURITY OTHER THAN A SHORT-TERM



1 MUNICIPAL SECURITY ISSUED UNDER THIS SECTION AS CONCLUSIVELY  
 2 CERTIFIED BY THE AUTHORITY. THE RESOLUTION SHALL PROVIDE FOR THE  
 3 PLEDGING OF ALL OR A PORTION OF THE REVENUES OF THE AUTHORITY NOT  
 4 PREVIOUSLY PLEDGED FOR THE PAYMENT OF A SECURITY. THE RESOLUTION  
 5 MAY ALSO PROVIDE FOR THE PLEDGING OF OTHER ASSETS OF THE AUTHORITY  
 6 AS ADDITIONAL SECURITY FOR THE PAYMENT OF THE SHORT-TERM MUNICIPAL  
 7 SECURITY. THE RESOLUTION ALSO SHALL PROVIDE THAT FROM THE RECEIPTS  
 8 OF THE REVENUES IN ANTICIPATION OF WHICH THE AUTHORITY ISSUED THE  
 9 SHORT-TERM MUNICIPAL SECURITY, THERE SHALL BE SET ASIDE IN A  
 10 SPECIAL FUND TO BE USED FOR THE PAYMENT OF PRINCIPAL AND INTEREST  
 11 ON THE SHORT-TERM MUNICIPAL SECURITY A PORTION OF EACH DOLLAR  
 12 RECEIVED THAT IS NOT LESS THAN 125% OF THE PERCENTAGE THAT THE  
 13 PRINCIPAL AMOUNT OF THE SHORT-TERM MUNICIPAL SECURITY BEARS TO THE  
 14 AMOUNT CERTIFIED AS THE REVENUES ESTIMATED TO BE COLLECTED, UNTIL  
 15 THE AMOUNT SET ASIDE IS SUFFICIENT FOR THE PAYMENT OF PRINCIPAL AND  
 16 INTEREST ON THE SHORT-TERM MUNICIPAL SECURITY. THE AMOUNT SET ASIDE  
 17 SHALL BE USED ONLY FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON  
 18 THE SHORT-TERM MUNICIPAL SECURITY UNTIL THE SHORT-TERM MUNICIPAL  
 19 SECURITY IS PAID AS TO BOTH PRINCIPAL AND INTEREST.

20 Sec. 18. (1) In addition to the bonds authorized in section  
 21 SECTIONS 14, 15, AND 16, bonds may be issued for ~~the purpose of~~  
 22 ~~acquiring port facilities~~ AUTHORIZED PURPOSES, as follows:

23 (a) By the issuance of bonds in anticipation of payments to  
 24 become due under contracts by which 1 or more constituent units  
 25 agree to pay to an authority operating under this act certain sums  
 26 toward the cost of the acquisition, improvement, enlargement, or  
 27 extension of a project that may be made under this act. Contracts

1 are not subject to the revised municipal finance act, 2001 PA 34,  
2 MCL 141.2101 to 141.2821.

3 (b) By money advanced by an authority operating under this act  
4 under agreements with a constituent unit or other municipality for  
5 the repayment of the money.

6 (c) By money advanced, from time to time, before or during  
7 construction of a project, by a public corporation, for which an  
8 authority operating under this act shall reimburse the corporation  
9 with interest not to exceed ~~8% per annum~~ **THE RATE PROVIDED IN THE**  
10 **REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO**  
11 **141.2821**, or without interest as may be agreed, when funds are  
12 available for reimbursement. The obligation of an authority to make  
13 the reimbursement may be evidenced by a contract or note, which  
14 contract or note may be made payable out of the payments to be made  
15 by constituent units under contracts made ~~pursuant to~~ **UNDER**  
16 subdivision (b), or out of the proceeds of bonds issued pursuant to  
17 this act by the county or out of any other available funds.

18 (2) Bonds issued under this section shall be authorized by a  
19 resolution adopted by the authority. The bonds shall be issued in  
20 the name of the authority and shall be executed by the chairperson  
21 and secretary-treasurer of the authority, who shall also cause  
22 their facsimile signatures to be affixed to the interest coupons to  
23 be attached to the bonds. The authority shall adopt a seal that  
24 shall be affixed to the bonds. Bonds issued under this section  
25 shall be negotiable instruments and shall mature not more than 40  
26 years after the date of issuance. The bonds and coupons shall be  
27 made payable in lawful money of the United States and shall be

1 exempt from all taxation whatsoever by this state or by any taxing  
2 authority within this state.

3 (3) Bonds or notes issued under this section are subject to  
4 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
5 141.2821.

6 SEC. 18A. A PLEDGE MADE BY AN AUTHORITY SHALL BE VALID AND  
7 BINDING FROM THE TIME THE PLEDGE IS MADE. THE MONEY OR PROPERTY  
8 PLEDGED AND RECEIVED BY THE AUTHORITY IMMEDIATELY SHALL BE SUBJECT  
9 TO THE LIEN OF THE PLEDGE WITHOUT A PHYSICAL DELIVERY, FILING, OR  
10 FURTHER ACT. THE LIEN OF A PLEDGE SHALL BE VALID AND BINDING AS  
11 AGAINST PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR  
12 OTHERWISE, AGAINST THE AUTHORITY, IRRESPECTIVE OF WHETHER THE  
13 PARTIES HAVE NOTICE. NEITHER THE RESOLUTION, THE TRUST AGREEMENT,  
14 NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE IS CREATED NEED BE FILED  
15 OR RECORDED.

16 Sec. 22. (1) An authority created under this act ~~shall be~~ IS  
17 exempt from and shall not be required to pay taxes on property,  
18 both real and personal, belonging to the authority, which is used  
19 exclusively for a public purpose. ~~However, the~~ THE exemption  
20 ~~shall~~ DOES not apply to property belonging to an authority while a  
21 private enterprise is a lessee of the property under a written  
22 lease. The bonds, notes, or other evidences of indebtedness, or  
23 their transfer, issued by an authority as authorized in this act,  
24 the interest ~~thereon~~ ON, the income derived, and the profit from  
25 a sale, ~~shall be~~ ARE exempt from taxation, other than inheritance  
26 and estate taxes, within this state.

27 (2) This section constitutes a covenant and agreement with the

1 holders of bonds, notes, or other evidences of indebtedness issued  
2 by an authority.

3 (3) INSTRUMENTS OF CONVEYANCE TO OR FROM AN AUTHORITY ARE  
4 EXEMPT FROM ALL FEES AND TAXATION IN THIS STATE.

5 Sec. 23. (1) An authority ~~created on or after May 1, 1984~~  
6 shall within 2 years after its creation prepare ~~or cause to be~~  
7 ~~prepared~~ a plan for the future development, construction, and  
8 improvement of the port and its facilities, including the maps,  
9 profiles, and other data and descriptions necessary to set forth  
10 the location and character of the work to be undertaken by the  
11 authority. ~~An authority in existence before May 1, 1984 shall~~  
12 ~~prepare or cause to be prepared the plan provided for in this~~  
13 ~~subsection not later than September 30, 1985. The authority shall~~  
14 ~~notify the legislature on April 15, 1985, as to the progress of the~~  
15 ~~plan.~~

16 (2) The authority shall ~~cause~~ **PROVIDE** notice by publication  
17 to be given upon the completion of the plan in a daily newspaper of  
18 general circulation in the area under the jurisdiction of the  
19 authority. The notice shall fix the time and place for hearing on  
20 the plan, which shall be not less than 30 nor more than 60 days  
21 after publication of the notice.

22 (3) Any interested person may file written comments to the  
23 plan, if those comments are filed with the secretary-treasurer of  
24 the authority not less than 5 days before the date fixed for the  
25 hearing.

26 (4) After the hearing, the authority may adopt the plan, with  
27 any modifications or amendments, as the official plan of the

1 authority. The authority, after adoption of the plan, may modify,  
 2 amend, or extend the plan after notice and hearing in the **SAME**  
 3 manner ~~prescribed in this subsection~~ **AS PROVIDED UNDER THIS**  
 4 **SECTION.**

5 ~~— (2) The plan and any modification, amendment, or extension,~~  
 6 ~~when adopted by the authority after notice and hearing, shall be~~  
 7 ~~conclusive except that plans for specific projects, to be~~  
 8 ~~undertaken in execution of the official plan, shall not be adopted~~  
 9 ~~by the authority without prior individual approval by the governing~~  
 10 ~~bodies of its constituent units, the state transportation~~  
 11 ~~department, and the department of commerce.~~

12 Sec. 24. (1) The authority shall submit in writing a detailed  
 13 estimate of the budget required for the business and conduct of an  
 14 authority's affairs, initially, for a 2-year period, and annually  
 15 thereafter to the governing bodies of its constituent units. ~~— the~~  
 16 ~~department of commerce, and the department of state highways and~~  
 17 ~~transportation for approval.~~ The state shall provide 50% of the  
 18 operating budget of the authority, to be included in the  
 19 ~~department of state highways and~~ **STATE DEPARTMENT OF**  
 20 transportation budget which shall be subject to legislative  
 21 approval. Fifty percent of the operating budget of an authority in  
 22 which not more than 1 county and not more than 1 city participate  
 23 shall be funded equally by the participating county and city.

24 (2) A city or county creating or participating in an authority  
 25 may appropriate for the use of the authority, and include in its  
 26 levy for general fund purposes, an amount considered proper.  
 27 ~~However, the~~ **THE** total amount permitted by law to be levied by a

1 city or county for general fund purposes shall not be considered  
2 increased by this section.

3 (3) PROJECT COSTS OF A SPECIFIC PROJECT, INCLUDING DEVELOPMENT  
4 COSTS OR COSTS OF AN UNDERTAKING OF AN AUTHORITY, SHALL BE PAYABLE  
5 FROM ANY LEGALLY AVAILABLE SOURCE.

6 (4) ~~—(3)—~~ As used in this section, "operating budget" means  
7 solely operation and maintenance expenses of an authority not  
8 included in the cost of a specific project, and interest on notes,  
9 but excludes amounts for debt service on bonds and amounts for  
10 acquisition, construction, enlargement, improvement, or extension  
11 of port facilities.

12 SEC. 31. (1) AN AUTHORITY MAY ENTER INTO AN INTEREST RATE  
13 EXCHANGE OR SWAP, HEDGE, OR SIMILAR AGREEMENT OR AGREEMENTS IN  
14 CONNECTION WITH THE ISSUANCE OR PROPOSED ISSUANCE OF OBLIGATIONS OR  
15 OTHER EVIDENCES OF INDEBTEDNESS OR IN CONNECTION WITH ITS THEN  
16 OUTSTANDING OBLIGATIONS OR OTHER EVIDENCES OF INDEBTEDNESS.

17 (2) IN CONNECTION WITH ENTERING INTO AN INTEREST RATE EXCHANGE  
18 OR SWAP, HEDGE, OR SIMILAR AGREEMENT, THE AUTHORITY MAY CREATE A  
19 RESERVE FUND FOR THE MAKING OF PAYMENTS.

20 (3) AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL COMPLY  
21 WITH ALL OF THE FOLLOWING:

22 (A) THE AGREEMENT IS NOT A DEBT OF THE AUTHORITY ENTERING INTO  
23 THE AGREEMENT FOR ANY STATUTORY OR CHARTER DEBT LIMITATION PURPOSE.

24 (B) THE AGREEMENT IS PAYABLE FROM GENERAL FUNDS OF THE  
25 AUTHORITY OR, SUBJECT TO ANY EXISTING CONTRACTS, FROM ANY AVAILABLE  
26 MONEY OR REVENUE SOURCES, INCLUDING REVENUES THAT SHALL BE  
27 SPECIFIED BY THE AGREEMENT, SECURING THE OBLIGATION OR EVIDENCE OF

1 INDEBTEDNESS IN CONNECTION WITH THE AGREEMENT.

2 SEC. 32. (1) WITH THE APPROVAL OF THE STATE TREASURER, AN  
3 AUTHORITY MAY OBTAIN A LINE OF CREDIT TO SECURE FUNDS FOR  
4 OPERATIONS OR TO PAY PREVIOUS LOANS OBTAINED FOR OPERATIONS UNDER  
5 THIS OR ANY OTHER STATUTE. THE AUTHORITY SHALL PLEDGE NOT MORE THAN  
6 100% OF THE REVENUES COLLECTED IN THE PRECEDING FISCAL YEAR THAT  
7 ARE NOT OTHERWISE ENCUMBERED OR PREVIOUSLY PLEDGED FOR THE PAYMENT  
8 OF A SECURITY.

9 (2) TO OBTAIN APPROVAL FOR OBTAINING A LINE OF CREDIT UNDER  
10 THIS SECTION, AN AUTHORITY SHALL APPLY TO THE STATE TREASURER IN  
11 THE FORM AND MANNER PRESCRIBED BY THE STATE TREASURER AND SHALL  
12 PROVIDE INFORMATION AS REQUESTED BY THE STATE TREASURER FOR  
13 EVALUATING THE APPLICATION. THE STATE TREASURER SHALL APPROVE OR  
14 DISAPPROVE AN APPLICATION AND NOTIFY THE AUTHORITY WITHIN 20  
15 BUSINESS DAYS AFTER RECEIVING A PROPER APPLICATION. IF THE STATE  
16 TREASURER DISAPPROVES AN APPLICATION, THE STATE TREASURER SHALL  
17 INCLUDE THE REASONS FOR DISAPPROVAL IN THE NOTIFICATION TO THE  
18 AUTHORITY.

19 Enacting section 1. Section 14a of the Hertel-Law-T.  
20 Stopczynski port authority act, 1978 PA 639, MCL 120.114a, is  
21 repealed.

22 Enacting section 2. This amendatory act does not take effect  
23 unless Senate Bill No.\_\_\_\_ or House Bill No. 5028(request no.  
24 02418'05\*) of the 93rd Legislature is enacted into law.

**Act 639 of 1978**

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979; -- Am. 1998, Act 188, Eff. Mar. 23, 1999

*The People of the State of Michigan enact:*

Sec. 1.

This act shall be known and may be cited as the "Hertel-Law-T. Stopczynski port authority act".

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Sec. 2.

(e) "Port facilities" means those facilities owned by the port authority such as: seawall jetties; piers; wharves; docks; boat landings; marinas; warehouses; storehouses; elevators; grain bins; cold storage plants; terminal icing plants; bunkers; oil tanks; ferries; canals; locks; bridges; tunnels; seaways; conveyors; modern appliances for the economical handling, storage, and transportation of freight and handling of passenger traffic; transfer and terminal facilities required for the efficient operation and development of ports and harbors; other harbor



improvements; or improvements, enlargements, remodeling, or extensions of any of these buildings or structures.

(f) "Project" means the acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, improvement, enlargement, repair, condemnation, maintenance, or operation of port facilities.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.103 Port authority; exercise of powers and duties; jurisdiction.**

##### **Sec. 3.**

An authority may exercise and apply any or all of its powers and duties as prescribed and set forth in this act, within the respective boundaries of the county or counties creating a port authority under this act, including jurisdiction over commercially navigable water lying therein.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.104 Port authority; incorporation; recommendations; articles of incorporation; body corporate and politic; public purpose.**

##### **Sec. 4.**

(1) A city and county, a combination of counties or a combination consisting of at least 1 city and 1 county, by joint resolution of their respective governing bodies, may request the governor to authorize the incorporation of an authority. The governor shall consider the recommendations of the department of state highways and transportation and the department of commerce in authorizing the authority. The initial articles of incorporation shall be approved by the governor and may thereafter be amended by resolution of the authority, subject to approval by the governor. After approval by the governor, the articles of incorporation and any amendments to those articles shall be effective upon filing with the secretary of state.

(2) An authority created under this act shall be a body corporate and politic.

(3) The exercise by an authority of the powers conferred by this act shall be considered and held to be an essential governmental function and a benefit to, and a legitimate public purpose of the state, the authority, and the constituent units.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.105 Port authority; appointment and terms of members; vacancy; reappointment; chairperson,**

**vice-chairperson, and secretary-treasurer; quorum; voting; expenses; liability.**

**Sec. 5.**

(1) Except as provided in subsection (5), an authority shall consist of 5 or 7 members as follows:

(a) One member shall be appointed by the governor.

(b) The remaining members shall be appointed by the governing body of each city and the governing body of each county that requested the incorporation of the authority. The representation on, and the number of members of, the authority shall be determined by agreement among the incorporating units and included within the joint resolution requesting incorporation of the authority.

(2) The members first appointed shall serve staggered terms. After the first appointment, each member shall serve a term of 4 years, except that a person appointed to fill a vacancy shall be appointed for the balance of the unexpired term. A member shall be eligible for reappointment.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson, shall designate the terms of office of those officers, and shall appoint a secretary-treasurer who need not be a member. A majority of the members of the authority shall constitute a quorum. The affirmative vote of a majority of the members shall be necessary for any action taken by the authority.

(4) The members shall serve without compensation but shall be reimbursed for all necessary travel and other expenses incurred in the discharge of their duties.

(5) An authority that is established in a county having a population of 1,500,000 or more shall consist of 5 members as follows:

(a) One member shall be appointed by the governor.

(b) Two members shall be appointed by a majority of all the members of the county board of commissioners of the county. The members appointed shall be nominated by the commissioners on the board who do not reside within the political boundaries of a city having a population of 750,000 or more.

(c) Two members shall be appointed by the mayor of a city having a population of 750,000 or more that is located in the county.

(6) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a member of the authority appointed under this section who exercises the powers contained in this act in good faith is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979; -- Am. 2001, Act 244, Imd. Eff. Jan. 8, 2002  
**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.106 Bond of secretary-treasurer.**

**Sec. 6.**

Before the issuance of any bonds, notes, or other evidences of indebtedness under this act, the secretary-treasurer of an authority shall execute a bond in the penal sum of \$100,000.00, conditioned upon the faithful performance of the duties of the office and executed by a surety company authorized to transact business in

this state as surety. The bond shall be filed in the office of the secretary of state. The premium of the bond shall be a current expense of the authority.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.107 Advisory committees and councils.**

##### **Sec. 7.**

An authority may organize and create advisory committees and councils to serve at the pleasure of the authority for terms and purposes considered to be in the best interest of furthering the intent and purpose of this act. The committees and councils shall be made up of persons especially skilled, knowledgeable, or experienced in international trade, finance, commerce, transportation, or labor. Members of the committees or councils shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.108 Port authority; powers generally.**

##### **Sec. 8.**

An authority may:

- (a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.
- (b) Sue and be sued on the same basis as the state; and adopt and register with the secretary of state an official seal and alter that seal at its pleasure.
- (c) Maintain offices at a place or places, either within or without its jurisdiction as it may determine.
- (d) Acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair, or operate port facilities within its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land therefor. An authority may operate a leased facility, owned by the authority, if the lessee defaults and a new lease is negotiated or competitively bid.
- (e) Designate the location and character of the port facilities which the authority may hold or own or over which it is authorized to act and regulate all matters related to the location and character of those port facilities.
- (f) Acquire, hold, and dispose of real and personal property.
- (g) Make directly, or through the hiring of expert consultants, investigations and surveys of whatever nature, including studies of business conditions, freight rates, port services, physical surveys of the conditions of channels and structures, and the necessity for additional port facilities for the development and improvement of commerce and recreation and for the more expeditious handling of that commerce and recreation, and make

studies, surveys, and estimates, as necessary for the execution of its powers under this act.

(h) Promulgate all necessary rules to fulfill the purposes of this act.

(i) Issue its bonds, notes, or other evidences of indebtedness as provided in this act.

(j) Fix and revise from time to time and charge and collect rates, fees, rentals, or other charges for the use of a facility owned by the authority.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.109 Port authority; additional powers.**

##### **Sec. 9.**

An authority may:

(a) Appear in its own behalf before boards, commissions, departments, or other agencies of the federal government or of any state or international conferences and before committees of the congress of the United States and the state legislature in all matters relating to the design, establishment, construction, extension, operation, improvement, repair, or maintenance of a project operated and maintained by the authority under this act, and appear before any federal or state agencies in matters relating to transportation rates, port services and charges, demurrage, switching, wharfage, towage, pilotage, differentials, discriminations, labor relations, trade practices, river and harbor improvements, aids to navigation, permits for structures in navigable waters, and all other matters affecting the physical development of, and the business interest of, the authority and those it serves.

(b) Make application for, receive and accept from any federal, state, or municipal agency, foundation, public or private agency, or individual, a grant or loan for, or in aid of, the planning, construction, operation, or financing of a port facility; and receive and accept contributions from any source of money, property, labor, or other things of value, to be held, used, and applied for the purposes for which the grant or contribution may be made.

(c) Appoint an executive director who shall be the chief administrative officer of the authority, and to whom the authority may delegate any of its administrative powers and authorizations. During employment the executive director shall not have a financial interest in port facilities or projects over which the authority has jurisdiction or power or authorization to act.

(d) Employ personnel as is necessary and employ the services of private consultants and engineers, legal counsel, accountants, construction and financial experts, and other agents for rendering professional and technical assistance and advice as may be necessary, and whose compensation, including the executive director, shall be determined by the authority.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.110 Port authority; additional powers.**

**Sec. 10.**

An authority may:

(a) Subject to the authority of the federal government and the state and with the agreement of the constituent units, provide for the preservation of navigation within its territorial jurisdiction, including the establishment by regulation of lines beyond which piers, bulkheads, wharves, pilings, structures, obstructions, or extensions of any character may not be built, erected, constructed, or extended; provide by regulation for the stationing, anchoring, and movement of vessels or other watercraft; adopt rules to prevent material, refuse, or matter of any kind from being thrown into, deposited, or placed where it may fall, or be washed, into navigable waters under its jurisdiction; ascertain the depth and course of the channels of those navigable waters; erect and maintain, authorize the erection and maintenance of, and make rules respecting wharves, bulkheads, piers, and piling, and the keeping of the same in repair, to prevent injury to navigation or health; regulate the use of wharves, docks, piers, bulkheads, or pilings owned by it; lease or rent the same, and impose and collect dockage from vessels and watercraft lying at, or using the same; and collect wharfage and other charges upon goods, wares, merchandise or other articles landed at, shipped from, stored on, or passed over the same.

(b) Make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

(c) Lay out, construct, acquire, operate, lease, sell, and convey planned industrial districts as a part of port facilities within its jurisdiction, subject to the restrictions contained in this act upon operation and ownership of port facilities.

(d) Do all acts and things necessary or convenient to promote and increase commerce and recreation within its territorial jurisdiction and carry out the powers expressly granted and any powers implied or necessary for the exercise of the powers expressly granted in this act.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.111 Port authority; liability.****Sec. 11.**

Except with respect to docks or wharves owned, controlled, or operated by, the authority, this act shall not be construed to impose a duty upon an authority to a person using its waters in regard to the safety thereof, or to render an authority liable for loss of life or injury or damage to person or property, by reason of an obstruction in, or unsafe condition of, any part of its waters, nor shall this act be construed to render the authority liable in damages or otherwise for an omission to pass or enforce a rule or resolution made under this act.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.112 Acquisition of property by purchase, lease, or condemnation; sale or removal of structures; sale or lease of property.****Sec. 12.**

(1) An authority may acquire by purchase or lease, when it considers the purchase or lease expedient, lands, structures, property, rights, rights of way, franchises, easements, and other interests in lands as it considers necessary or convenient for the construction or operation of a project, upon terms and at a price as considered reasonable and agreed upon between the authority and the owner thereof.

(2) An authority may acquire by condemnation lands, property rights, rights of way, franchises, easements, and other property, or parts thereof or rights therein, of a person, partnership, association, or corporation considered by the authority to be necessary for the construction or efficient operation of a project. However, a facility currently operated as a port facility by a terminal operator or a facility owned or operated by and for the exclusive use of the owner or operator and a facility owned or operated by a common carrier or public utility shall be exempt from this subsection. The condemnation shall be made in the manner provided by Act No. 295 of the Public Acts of 1966, as amended, being sections 213.361 to 213.391 of the Michigan Compiled Laws, except where that procedure may be inconsistent with this act.

(3) An authority may sell or remove the buildings or other structures upon lands taken by the authority, and may sell or lease lands or rights or interest in lands or other property taken or purchased for the purposes of this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to § 120.130.

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**120.113 Contracts for acquisition, improvement, enlargement, or extension of port facilities; payment of cost; pledge of full faith and credit; tax levy; methods of raising funds; assessment of costs.**

**Sec. 13.**

(1) An authority and 1 or more constituent units may enter into a contract or contracts for the acquisition, improvement, enlargement, or extension of port facilities and for the payment of the cost thereof by the contracting constituent units, with interest, over a period of not more than 40 years.

(2) Each contracting constituent unit shall pledge its full faith and credit for the payment of its obligations under the contract. If the constituent unit has taxing power, each year it shall levy a tax upon all real and personal property within the constituent unit, which may be imposed without limitation as to rate or amount, to the extent necessary for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. The tax shall be in addition to any tax which the contracting constituent unit may otherwise be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contract obligation. If any contracting constituent unit at the time of its annual tax levy has on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, funds may be raised by a contracting constituent unit in 1 or more of the following methods:

- (a) By service charge to users of the facilities owned by the port authority.
- (b) By setting aside state collected funds disbursed to the contracting constituent unit.
- (c) By special assessment upon lands benefited.
- (d) By setting aside any other available money.

(3) A contracting constituent unit may agree to raise all or any part of its contract obligation by 1 or more of the methods enumerated in subsection (2) which may be available. The various powers granted in this act to a constituent unit shall be exercised by its governing body.

(4) If a constituent unit, other than a county, operating under this act elects to raise money to pay all or a portion of its share of the cost of a project by assessing the costs upon benefited lands, its governing body shall so determine by resolution and fix the district therefor. The governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments on the roll, shall be in accordance with the provisions of the statute or charter governing special assessments in the constituent unit, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.114 Revenue bonds; applicability of revenue bond act; revenue bonds payable solely from revenues or income.**

**Sec. 14.**

(1) An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of providing funds for paying the cost of port facilities, or for paying the cost of an extension, enlargement, or improvement of a project then under the control of the authority. The bonds issued under this section shall mature at a time or times, not exceeding 40 years after their date of issuance, as the authority may provide.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Revenue bonds issued pursuant to this section shall not be considered to constitute a debt of this state, a political subdivision of this state, the authority, or any constituent unit, or a pledge of the faith and credit of this state or a political subdivision of this state or of the authority or any constituent unit, but shall be payable solely from the revenues or income to be derived from the projects. The revenue bonds shall contain on their face a statement to the effect that the bonds and attached coupons are payable solely from revenues and are not a general obligation of this state, a political subdivision of this state, the authority, or a constituent unit, and neither the faith and credit nor the taxing power of this state, a political subdivision of this state, the authority, or a constituent unit, is pledged to the payment of the principal of or the interest on the bonds.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983 ;-- Am. 2002, Act 412, Imd. Eff. June 3, 2002

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.114a Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 14a.

A petition under section 14, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 188, Eff. Mar. 23, 1999

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**120.115 Revenue bonds; form; date; denomination; place of payment; redemption; validity of signature or facsimile; issuance in coupon or registered form; registration, reconversion, and interchange of bonds.**

**Sec. 15.**

An authority shall determine the form of the bonds of each series issued pursuant to section 14, including any interest coupons to be attached thereto, the date of the bonds, the denomination of the bonds, and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds of each series may be made redeemable before their maturity or maturities at the option of the authority, at a price and under the terms and conditions as may be fixed by the authority before issuance of the bonds. If an officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.116 Revenue bonds; trust agreement.**

**Sec. 16.**

Revenue bonds issued pursuant to this act shall be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within or without the state. The trust agreement may pledge or assign the rentals and other revenues of the authority, but shall not convey or mortgage part or all of a project. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition or construction of a project and the extension, enlargement, improvement, maintenance, operation, repair, and insurance of a project and the custody, safeguarding, and application of all money and may contain provisions for the employment of consulting engineers in connection with the construction and operation of a project. The trust agreement shall set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by the bondholders and may contain any other provisions the authority may consider reasonable and proper for the security of the bondholders.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.117 Bonds as securities; investment; deposit.**



## Sec. 17.

(1) Bonds issued under this act are securities in which all public officers and public agencies of the state and its political subdivisions and all banks, trust companies, savings and loan associations, investment companies, and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them.

(2) Bonds issued under this act are securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.118 Additional bonds for acquisition of port facilities; authorization; resolution; issuance and execution of bonds; seal; negotiable instruments; maturities; payment; tax exemption; issuance of bonds or notes subject to revised municipal finance act.**

## Sec. 18.

(1) In addition to the bonds authorized in section 14, bonds may be issued for the purpose of acquiring port facilities, as follows:

(a) By the issuance of bonds in anticipation of payments to become due under contracts by which 1 or more constituent units agree to pay to an authority operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act. Contracts are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(b) By money advanced by an authority operating under this act under agreements with a constituent unit or other municipality for the repayment of the money.

(c) By money advanced, from time to time, before or during construction of a project, by a public corporation, for which an authority operating under this act shall reimburse the corporation with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for reimbursement. The obligation of an authority to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by constituent units under contracts made pursuant to subdivision (b), or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds.

(2) Bonds issued under this section shall be authorized by a resolution adopted by the authority. The bonds shall be issued in the name of the authority and shall be executed by the chairperson and secretary-treasurer of the authority, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The authority shall adopt a seal that shall be affixed to the bonds. Bonds issued under this section shall be negotiable instruments and shall mature not more than 40 years after the date of issuance. The bonds and coupons shall be made payable in lawful money of the United States and shall be exempt from all taxation whatsoever by this state or by any taxing authority within this state.

(3) Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979 ;-- Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983 ;-- Am. 2002, Act 412, Imd.

Eff. June 3, 2002

Compiler's Notes: See Compiler's note to § 120.130.

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#### **120.119 Validation of bonds or notes; contesting validity.**

##### **Sec. 19.**

Bonds or notes issued under this act by an authority are validated. An authority acting under this act or any constituent unit, including the county, shall not contest the validity of bonds or notes issued under this act or any contract which provides the security therefor, after the bonds are sold and delivered and the authority has received the consideration therefor.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to § 120.130.

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#### **120.120 Contract for use of port facilities; increase in charges; duration of contract.**

##### **Sec. 20.**

Any 1 or more municipalities or other public corporations, either within or without an authority, may contract for the use of port facilities from an authority operating under this act. The charges specified in a contract shall be subject to increase by the authority at any time in order to provide funds to meet the obligations of the project involved. A contract authorized pursuant to this section shall be for a period of not more than 50 years.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to § 120.130.

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#### **120.121 Dock, waterfront, or riparian property; transfer, possession, or control.**

##### **Sec. 21.**

The governing bodies of constituent units may, by majority vote, and with or without consideration, transfer or cause to be transferred to the authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property owned or controlled by a constituent unit.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979

Compiler's Notes: See Compiler's note to § 120.130.

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#### **120.122 Tax exemption.**

## Sec. 22.

(1) An authority created under this act shall be exempt from and shall not be required to pay taxes on property, both real and personal, belonging to the authority, which is used exclusively for a public purpose. However, the exemption shall not apply to property belonging to an authority while a private enterprise is a lessee of the property under a written lease. The bonds, notes, or other evidences of indebtedness, or their transfer, issued by an authority as authorized in this act, the interest thereon, the income derived, and the profit from a sale, shall be exempt from taxation, other than inheritance and estate taxes, within this state.

(2) This section constitutes a covenant and agreement with the holders of bonds, notes, or other evidences of indebtedness issued by an authority.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.123 Plan for future development, construction, and improvement of port and facilities; notice; comments; hearing; adoption; modification, amendment, or extension; plans for specific projects.**

## Sec. 23.

(1) An authority created on or after May 1, 1984 shall within 2 years after its creation prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including the maps, profiles, and other data and descriptions necessary to set forth the location and character of the work to be undertaken by the authority. An authority in existence before May 1, 1984 shall prepare or cause to be prepared the plan provided for in this subsection not later than September 30, 1985. The authority shall notify the legislature on April 15, 1985, as to the progress of the plan. The authority shall cause notice by publication to be given upon the completion of the plan in a daily newspaper of general circulation in the area under the jurisdiction of the authority. The notice shall fix the time and place for hearing on the plan, which shall be not less than 30 nor more than 60 days after publication of the notice. Any interested person may file written comments to the plan, if those comments are filed with the secretary-treasurer of the authority not less than 5 days before the date fixed for the hearing. After the hearing, the authority may adopt the plan, with any modifications or amendments, as the official plan of the authority. The authority, after adoption of the plan, may modify, amend, or extend the plan after notice and hearing in the manner prescribed in this subsection.

(2) The plan and any modification, amendment, or extension, when adopted by the authority after notice and hearing, shall be conclusive except that plans for specific projects, to be undertaken in execution of the official plan, shall not be adopted by the authority without prior individual approval by the governing bodies of its constituent units, the state transportation department, and the department of commerce.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979;— Am. 1984, Act 256, Imd. Eff. Nov. 30, 1984

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.124 Operating budget.**

## Sec. 24.

(1) The authority shall submit in writing a detailed estimate of the budget required for the business and conduct of an authority's affairs, initially, for a 2-year period, and annually thereafter to the governing bodies of its constituent units, the department of commerce, and the department of state highways and transportation for

approval. The state shall provide 50% of the operating budget of the authority, to be included in the department of state highways and transportation budget which shall be subject to legislative approval. Fifty percent of the operating budget of an authority in which not more than 1 county and not more than 1 city participate shall be funded equally by the participating county and city.

(2) A city or county creating or participating in an authority may appropriate for the use of the authority, and include in its levy for general fund purposes, an amount considered proper. However, the total amount permitted by law to be levied by a city or county for general fund purposes shall not be considered increased by this section.

(3) As used in this section, "operating budget" means solely operation and maintenance expenses of an authority not included in the cost of a specific project, and interest on notes, but excludes amounts for debt service on bonds and amounts for acquisition, construction, enlargement, improvement, or extension of port facilities.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.125 Surplus of unencumbered funds; disposition.**

##### **Sec. 25.**

If at the end of a fiscal year a surplus of unencumbered funds remains after providing for the operating expenses of an authority, the authority may pay that surplus into the general funds of the state and of its constituent units in the same proportion which the appropriations made by each to the authority bear to each other.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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#### **120.126 Entry on lands, waters, and premises; purpose; reimbursement for actual damages.**

##### **Sec. 26.**

For the purpose of making surveys, soundings, drillings, examinations, and investigations as it considers necessary or convenient for the purposes of this act, an authority and its authorized agents and employees may enter upon the lands, waters, and premises in the authority and that entry shall not be considered a trespass; nor shall an entry for these purposes be considered an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for actual damages resulting to the lands, waters, or premises as a result of these activities.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.127 Employees of port authority; transfer and payment of sick leave and annual leave; salary rate; job seniority and pension rights.**

**Sec. 27.**

(1) The employees of an authority, existing on the effective date of this act, of a city or county which creates or participates in an authority created under this act shall become the employees of that succeeding authority.

(2) Each employee at his or her option may transfer all or part of accumulated sick leave and shall be paid 1/2 of all unused accumulated sick leave not transferred. The employee also may transfer all or part of accumulated annual leave not to exceed more than 27 days and shall be paid for all unused accumulated annual leave not transferred.

(3) The transferred employee shall continue at his or her present salary rate, and if greater than that paid in the constituent unit for similar work, shall remain at the current level until matched by that constituent unit.

(4) Job seniority and pension rights shall be credited as if first employed by the constituent unit.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.128 Annual report; audit.**

**Sec. 28.**

An authority shall make an annual report of its activities within 3 months after the close of its fiscal year to the governor and to the governing body of each constituent unit. The report shall include a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant, with the cost to be treated as an operation expense.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.129 Liberal construction; powers cumulative.**

**Sec. 29.**

This act, being necessary for the welfare of the state and its inhabitants shall be liberally construed to effect its purposes. Powers granted in this act shall be cumulative and not exclusive of one another and may be exercised notwithstanding that bonds, notes, or other evidences of indebtedness are not issued.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** See Compiler's note to § 120.130.

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**120.130 Repeal of §§ 120.1 to 120.35; effective date of subsection (1).****Sec. 30.**

(1) Act No. 234 of the Public Acts of 1925, as amended, being sections 120.1 to 120.35 of the Compiled Laws of 1970, is repealed.

(2) Subsection (1) shall not take effect until the constituent bodies of each port authority created pursuant to Act No. 234 of the Public Acts of 1925 and in existence on the effective date of this act participate in the creation of an authority pursuant to this act and the membership of the commission governing that authority is appointed.

**History:** 1978, Act 639, Imd. Eff. Jan. 11, 1979

**Compiler's Notes:** The Monroe Port Authority has not created an authority and derive its power from, Act 234 of 1925, being §§ 120.1 to 120.35 of the A

and continues to operate under,

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